In the High Court of Punjab and Haryana at Chandigarh

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Criminal Misc. No.M-42010 of 2007

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Date of decision:13.8.2007

Sukhraj Singh

.....Petitioner

v.

State of Punjab

.....Respondent

....

Present: Mr. Rajesh Kumar Girdhar, Advocate for the petitioner.

Mr. I.P.S. Sidhu, Senior Deputy Advocate General, Punjab for the respondent-State.

.....

S.S. Saron, J.

Heard learned counsel for the parties.

While Police party headed by Joginder Singh, ASI, Police Station Lambi was at Bus Stand Lambi, some other Police officials came there. At that time special messenger informed that Sukhraj Singh (petitioner) is indulging in selling poppy husk and opium. On the said date i.e. 24.7.2007 he was selling poppy husk and opium. If a raid was conducted in his house opium and poppy husk could be recovered. The Police party went to Village Channu, where Kaur Singh, Chowkidar met them at the bus stand who was joined by the Police party. At the instance of Chowkidar, the Police party raided the house of Sukhraj Singh (petitioner). When the Police party was about 20 `Karams' from the house of Sukhraj Singh (petitioner), a person came out from his house with a plastic bag in his right hand. On seeing the Police vehicle and the Police party he threw

the bag and ran towards his house. The mouth of the bag opened and some poppy husk spilled out. The Assistant Sub Inspector stopped the vehicle and followed Sukhraj Singh towards his house but he could not be found there. Sukhraj Singh was identified by HC Devinder Singh and Chowkidar Kaur Singh. On search of the plastic bag, another plastic container was found in it. When the cover of the container was opened, it was found to contain poppy husk. In another plastic container which was tied with a thread and was of black colour, poppy husk was found. After arranging weighing scale 250 grams of poppy husk was separated as sample and its parcel was prepared and the remaining poppy husk was weighed which was found to be 750 grams and the same was put into the same plastic bag and its parcel was sealed. The formalities required by the provisions of the NDPS Act are stated to have been carried out. It is alleged that the petitioner by keeping 1 Kgs. of poppy husk and 600 grams Opium in his possession has committed offences under Sections 15 and 18 of the NDPS Act.

Learned counsel for the petitioner has submitted that the petitioner was apprehended at the spot and he has been falsely implicated by the Police for some ulterior motive. It is submitted that it has been alleged in the FIR that initially one person came out of the house of Sukhraj Singh who was having a bag in his right hand and on seeing the police party he ran towards his house. Thereafter the Police entered the house of Sukhraj Singh but he was not present in the house. Meaning thereby, somebody else threw the plastic bag and the petitioner was not involved in the commission of the offence and, therefore, he is entitled to the concession of bail. It is submitted that it is a case of false implication and there is no independent

witness in the case. The seal after use after sealing the sample was not handed over to Kaur Singh Chowkidar who is stated to be an independent witness.

In response, learned counsel for the State has submitted that the allegations against the petitioner of having poppy husk and opium are serious in nature, therefore, he is not entitled to the concession of anticipatory bail.

After giving my thoughtful consideration to the matter, it may be noticed that the offences under the NDPS Act are serious in nature. A raid was conducted by the Police party on the basis of secret information. The petitioner came out of the house holding a plastic bag in his hand. He on seeing the Police party threw the bag and ran away. On search of the plastic bag, one Kg. of poppy husk was found in the said bag and also one polythene envelope was found and on its search it was found to contain 600 grams of Opium. Keeping in view the nature of allegations and the offences under the NDPS Act attributed to the petitioner, no ground for anticipatory bail is made out.

Consequently, the criminal miscellaneous petition is dismissed.

August 13, 2007. **(S.S. Saron)**
Judge

hsp

NOTE: Whether to be referred to the Reporter or not:No